

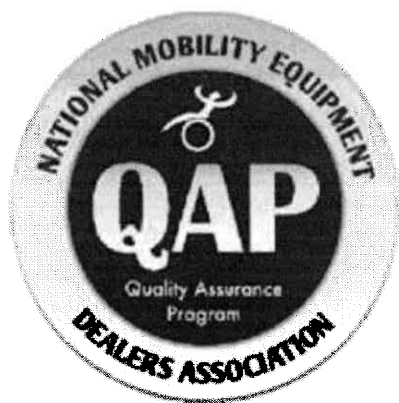


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NMEDA Auto Access

QAP Participation Is a New NMEDA Requirement in 2011

Feb 01, 2011



Participation in the Quality Assurance Program (QAP) has been optional for members of the National Mobility Equipment Dealers Association (NMEDA) — but that changed on Jan. 1.

In an interview with Mobility Management, NMEDA Executive Director Dave Hubbard indicated that QAP participation has been written into the organization's bylaws and becomes mandatory as dealers renew their memberships this year.

The new requirement will be one of the key topics discussed at NMEDA's annual conference, taking place this year in Daytona Beach, Fla., Feb. 2-4.

Saying NMEDA "does need to stand for something," Hubbard explained that the QAP requirement strengthens dealer standards and therefore strengthens the entire organization.

"When you have some members who are QAP (participants) and some members who are not QAP," Hubbard said, "a person can come in and say they're going to abide by the guidelines, because that's what they do when they join NMEDA." But, he noted, it was difficult for consumers to determine whether or not the dealer was in fact complying by NMEDA guidelines.

"But with QAP," Hubbard says, "you are audited to those guidelines at least once a year, and in some cases, twice a year."

The QAP holds members to a range of standards, including requirements to maintain Product and Completed Operations and Garage Keepers insurance; have certified welders if they perform structural modifications to vehicles; have technicians certified for the equipment they sell, install and service; maintain records of adaptive work; provide 24-hour service to customers; and abide by mediation committee decisions when complaints are lodged.

Describing the guidelines as “pretty much common sense,” Hubbard says, “It takes a little work to keep the records, but beyond that, you’ve got to have the right tools, you’ve got to have training on the products you install. It’s all the stuff that you would normally expect somebody to do, so there’s no reason not to have everybody do it.”

Getting Up to QAP Speed

While the new QAP requirement went into effect at the start of the year, Hubbard said there is a grace period for NMEDA members. “If you are not QAP and you renew (the NMEDA membership), you’ll have 30 days to get your new application in, and of course we will send out your application 30 days in advance of that, so you’ll basically have 60 days.” Members who need to renew by March 30 or earlier will have until May 1 to turn in a new application, he added.

To educate mobility dealers on the benefits of the QAP, NMEDA has three new online training programs. Hubbard describes the first program as “an introduction to QAP, what it’s about...it gives them information on what the value of it is, the benefits. The second one is setting up a quality-control manual and preparing for an audit, and the third one is about the guidelines themselves — we’ve just launched that. We hope all of this combined will eventually lead (a dealer) to a certification.”

Spreading the Word to Consumers

Teaching consumers about the value of working with dealers who specialize in adaptive automotive equipment continues to be a major NMEDA goal, Hubbard said. Therefore, another critical topic for the February conference will be the organization’s Cooperative Awareness Program, an effort involving not only NMEDA members, but also the automotive manufacturers.

“That in essence is our advertising program,” Hubbard says. “We have our manufacturers add a one-half-of-one-percent (fee) on wholesale to an invoice to NMEDA members. They collect the money for us and send it in on a monthly basis. And we’ve been developing advertising budgets, not only to inform consumers, but

advocacy groups, the OTs and PTs, on why they should choose NMEDA and the value of QAP.”

As for the near future of the adaptive automotive equipment industry, Hubbard is confident — and pointed to statistics that show anticipated conference attendance to be “quite a bit ahead of this time last year, and the year before.”

While the mainstream automotive industry was rocked by the global recession, Hubbard said the impact wasn’t as profound for adaptive automotive dealers. “We didn’t go down as far as the (mainstream) automotive segment did,” he noted. “When people need our products, they need our products. (Dealers) were down a little bit or fl at during that recession, and then they started to come up a little bit last year.”

Judging from what NMEDA members are saying and how many are expected in Daytona, Hubbard added, this segment’s fortunes are continuing to rise.

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NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION
QUALITY ASSURANCE PROGRAM



NMEDA
QUALITY ASSURANCE PROGRAM
MEMBERSHIP RULES

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION

QUALITY ASSURANCE PROGRAM

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QUALITY ASSURANCE PROGRAM

I. Purpose and Scope

The Quality Assurance Program (QAP) is the only nationally recognized dealer accreditation program for the adaptive mobility equipment industry. The purpose of the program is to ensure the products and services provided by Quality Assurance Program (QAP) dealers meet or exceed customer needs and current government safety requirements. It is based on the principle that in order to satisfy customers consistently, companies must have a systematic and documented approach to quality. The program was developed to elevate the level of dealer performance to reliably meet consumers' transportation needs in the safest manner possible.

The QAP designation is indicative of enhanced vehicle modification and adaptive equipment installation consistent with the highest standards available in the industry. Dealers are required to follow guidelines written in accordance with motor vehicle safety standards, a professionally managed dynamic and static testing program and proven quality control practices that advocate the highest level of performance and safety.

QAP Requirements:

All dealers participate in the QAP and are held to extremely high standards. They are required to:

- Maintain Product and Completed Operations and Garage Keepers insurance for liability purposes.
- Have certified welders if they perform structural modifications to vehicles.
- Have technicians certified for the equipment they sell, install and service.
- Maintain records of all adaptive work.
- Undergo an inspection/audit process at least annually by an independent auditing firm to ensure compliance to the NMEDA Guidelines, certain aspects of the Americans with Disabilities Act, the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards (FMVSS) and "Make Inoperative" mandates.
- Abide by the Mediation Committee's decisions when a complaint is lodged by a consumer, a dealer or any other person or entity.
- Provide 24 hour emergency service or support assistance to their customers.
- Meet shop facility and equipment requirements.
- Four-corner scales required, with printer option recommended.
- Use the NMEDA Servicing Dealer Agreement (Guidelines - Appendix B)

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II. Program Participation

NMEDA Dealer Member: Participation in the Quality Assurance Program is required for all NMEDA dealer members; there are no extra fees due to NMEDA associated with participation as long as the program requirements are met within the established time parameters. Additional fees for subsequent inspections are paid to the audit firm. Upon submission of the required documents and successful completion of an initial audit, an applicant's membership will be accepted and will remain as such until termination or suspension from the program.

Non-Member: Non-member mobility equipment dealers may participate in the program and are charged at a rate of \$5,000.00 (US) per year. Fees are payable annually based on the anniversary date of the initial successful inspection. Non-members will only be listed in the QAP Dealer portion of the Circuit Breaker.

Member and Non-Member Participants with Multiple Locations:
NMEDA dealer member participants with multiple locations must have each individual location accredited separately based upon the type(s) of work performed and must have all locations QAP accredited for the type(s) of work performed at the location.

For the purposes of this document, any reference to the "Audit Firm" will be considered NMEDA for Canadian dealers.

III. Categories of QAP Accreditation

The QAP accreditation categories are established by the type(s) of modifications that the mobility equipment dealer is performing with respect to the adaptive equipment industry.

QAP dealers can earn accreditation in any or all of the following three categories. The details related to the types of work included in each accreditation category, along with the requirement for annual vs. semi-annual mandatory site inspections are listed below.

NOTE: A shop must be accredited for all of the types of work that it performs.

Mobility Equipment Installer: All mobility equipment not considered as structural or high tech, including, but not limited to:

- Trunk lifts for wheelchairs and scooters
- Portable ramps
- Power and manual wheelchair tie-downs
- Simple non-driver devices
- Manual hand controls

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Steering devices
Left foot accelerator
Pedal extensions
Roof-top carriers
Driver and passenger power and manual transfer seats
Wheelchair lifts
Secondary driving aids (non-electrical)
Driver trainer brakes
Power seat bases

Mandatory Site Inspection: Annually

Structural Vehicle Modifier:

All structural modifications including:

Lowered floors
Power pans
Raised roofs
Raised doors
Support cages

Mandatory Site Inspection: Semi-annually

- A. A company that subcontracts structural modifications in their entirety will not be considered to be a Structural Modifier and cannot be accredited as such. All structural subcontracting must be made to properly accredited QAP Structural Modifiers.
- B. A company performing structural modifications that subcontracts only their welding to certified welders will be considered a Structural Modifier. The Structural Modifier must have a copy of the subcontractor's welding certificates on file.
- C. A company that subcontracts structural modifications cannot be advertised as if such modifications are performed there, nor can this be implied.

High Tech Driving System Installer: All high tech primary driving systems including:

Low and zero effort steering systems with backup
Low and zero effort braking systems with backup
Electronic and pneumatic gas/brake
Horizontal, joystick, hydraulic, and electronic steering systems
Touch pads/secondary controls (requiring electrical)

Mandatory Site Inspection: Semi-annually

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IV NMEDA Dealer Membership Application Process

- A. Request a NMEDA dealer membership application from NMEDA or visit the NMEDA web site to print the forms <http://members.nmeda.org/quality-assurance-program/join-qap/default.aspx>.
- B. Fill out the Application and the Dealer Licensing Agreement. Forward both documents along with all required certificates (manufacturer training, welding (when applicable), etc.), a copy of the NHTSA registration letter or National Safety Mark where applicable, certificate(s) of insurance and payment for initial inspection to NMEDA.
1. Certificates of Training: Furnish copies of certificates of training from the manufacturers listed on your application form. Some manufacturers do not offer factory training and/or certificates. A letter stating that the dealer is authorized to sell and/or install their product must be furnished in lieu of a certificate. If the dealer cannot obtain a certificate or letter from the manufacturer, please contact the NMEDA QAP Coordinator.
 2. Welding: US dealers must submit a welders' certification to AWS D1.1 or AWS D1.3 if structural modifications are made. If welding is contracted out, a copy of that welder's certificate must be included with the application. Test welds for certification must be done in accordance with AWS D1.3 sheet metal welding code or AWS D1.1 structural welding code.

Canadian dealers must submit a welders' certification to Advanced Welding Techniques standards in accordance with sheet metal or structural welding code.
 3. NHTSA Registration: A copy of the letter of registration (<http://www.nmeda.org/members/members-pdfs/NHTSALetter.pdf>) must be included with US dealer membership application. If there are questions about registering with NHTSA see the NMEDA website or call the NMEDA office for the NHTSA "Make Inoperative" packet.

Canadian dealers must submit a copy of the National Safety Mark from Transport Canada if they do structural modifications.
 4. Payment for Initial Inspection: Payment of \$600.00 US must be made out to NMEDA and must be included with application. This Fee is subject to change periodically.

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- C. Missing documentation:** If the application does not contain all of the required information the applicant will be sent written notice within 10 working days of receipt of the application that documentation is missing. The applicant must supply missing documentation to NMEDA within 30 days. If the missing documentation is not received within the 30 days allowed the application will be returned to the applicant at the applicant's expense.
- D. Auditing firm notification of application approval:** Once the initial application is approved, the audit firm will contact the dealer within 14 days to schedule the initial inspection. At this time, a copy of the Quality Control Manual template may be requested, but is not required until the initial inspection is completed.
- E. Conducting the initial audit:** The audit will be conducted in accordance with the directions contained in the document titled "NMEDA QAP Inspector Process" (appendix A).
- **Product must be available for this audit since process controls will likely not be in place yet.**
 - **The absence of both product and the internal control process documents will result in a negative finding and will require an out of sequence audit within 30 days of the initial audit.**
 - **Product provided for inspection must have been built within 6 months of the audit.**
 - **The "Audit Findings Action Matrix" (appendix C), shows a clear expectation of the actions which are required as a result of the auditor's findings during the audit. Once the audit has taken place, the report is forwarded to NMEDA for review. The NMEDA QAP Coordinator will follow up on any outstanding actions required by the dealer prior to QAP accreditation being issued.**
- F. Quality Control Manual:** The applicant will be given a template for the QC Manual after initial inspection and is responsible for developing and maintaining a manual for quality control and audit procedures for the NMEDA Quality Assurance Program. **The applicant will have 60 days from the date of initial inspection to complete the manual and return it to the auditing firm for review. If additional information is required, the auditing firm will inform the applicant and they will have 15 days from the date of the review letter to make corrections and/or add the information requested and return the manual to the auditing firm.** If these deadlines are not met the applicant will forfeit all fees paid and accreditation will be suspended until the completed manual is received. When the auditing firm and the dealer both agree on the manual's content three copies are made, the three cover sheets are signed and the manuals are forwarded to the auditing firm, The auditing firm will sign three copies; returning one to the dealer, retaining one for the dealer's file and forward one to NMEDA.

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For Canadian dealers, NMEDA will sign 2 copies of the quality manual. They will return a copy to the dealer, and retain a copy for their records.

G. Certificate of Accreditation: After approval of the initial audit report, NMEDA will issue the conditional QAP Certificate of Accreditation. Once the Quality Control manual is received, the dealer is officially a QAP Accredited Dealer, once notified by NMEDA. The dealer may then and not before then, make use or reference to NMEDA & / or QAP in advertising, electronic media, labels on vehicles, or printed materials.

H. Subsequent audits and billing: Subsequent audits by the auditing firm will take place generally within 180 days of the Structural and High Tech dealer's first audit; however, more or less time is acceptable to allow for efficient audit groupings. The audit fees the auditing firm pre-bills must be paid before the audit can take place.

I. Audit Fees

- Mobility Equipment Installers: \$600 annually (invoiced in December)
- High Tech and Structural: \$600 semi-annually (invoiced in December and June).
- Audit fees must be paid within 30 days of receipt of the invoice.
- This Fee is subject to change periodically.

V Program Requirements

A. Insurance:

- Garage Keeper's Liability – No limit.
- Product and Completed Operations policy – Check limits. This must be specifically named and listed as a separate coverage. It may be contained in the general liability policy or in the Garage Keepers' policy, but must be identified specifically. Product and Completed Operations must have limits of \$1,000,000 per occurrence. Minimum limits on these policies must be \$1,000,000 aggregate and be listed on the certificate.
- NMEDA will be named as a Certificate Holder and a copy of the certificate and all renewals must be sent to NMEDA office and maintained in the dealer's QAP file. Penalty: Failure to maintain up-to-date insurance certificates in the NMEDA file will result in suspension.

General Insurance Information

- Garage Keepers' Liability or Legal Liability is typically the same policy, therefore if one or the other are listed, that is acceptable.
- Garage Keepers' Liability must be listed as direct primary coverage so the customer's vehicle is insured as primary in the event of damage or loss.
- Garage Keepers' Liability only protects the client's vehicle when it is in the dealers care, custody and control. Typically products and completed operations coverage is not found in a garage keepers policy.

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- When a general liability policy lists specific Products and Completed Operations, the client, their vehicle and others are covered once they leave the dealer's premises for any failures that may occur, including "failures to inform".
- Unless Products and Completed Operations policies are specifically listed on the Certificate of Insurance, auditing inspector will present the Certificate of Insurance to the QAP Coordinator for analysis.

Also see "Procedures for Insurance Review" found in the "Documents" section of our web site.

B. Labeling and Label Log:

The purpose of the labeling program is to track all vehicles modified or sold by QAP dealers. The NMEDA QAP label is to be placed on ALL vehicles modified with new and/or used equipment in accordance with the NMEDA Guidelines. NMEDA or their representative will track the sale and use of these labels.

1. The dealer must purchase labels from the auditing firm at a cost of \$6.00 per label. (<http://www.nmeda.org/members/members-pdfs/NMEDA-QAP-LabelOrderForm.pdf>).
If the dealer has an outstanding balance the labels will not be shipped until all fees are current. This Fee is subject to change periodically.
2. The QAP requires a dealer to have a label log, maintained in the following format. The label log binder is to be assembled with the Label Use Summary sheet for each month followed by the individual detailed label report forms for that month sorted with the latest month first. The QAP label number is to be applied to the inspection sheets that are contained in the Customer's file for cross-referencing. This process does not need to be retroactive, as the auditors will be looking at the most current examples of the dealer's work. A chronologically sorted label log is considered a valuable resource. In addition to aiding the auditor, it will be valuable to the dealer in monitoring monthly activity and would be invaluable, in the event they were called upon to carry out a recall.
3. QAP reporting requirements will reflect label usage data on the Label Use Summary Form and Label Use Forms. This will provide data on dealer activity including how many labels were used and what types of equipment were installed. The Label Use Summary Form and Label Use Forms must be submitted electronically to the auditing firm at the beginning of each month. All US dealer information is to be sent to the following e-mail address: info@radcoinc.com . The Canadian dealer information needs to be sent to the labels@nmeda.org email address.

Penalties for infraction: If after sixty (60) days from the original due date, the label reports have not been received by the auditing firm, your QAP status will be temporarily suspended from the program. The appropriate State agency and manufacturers that offer QAP discounts will immediately be notified of your suspension. To be reinstated, NMEDA must verify that the delinquent reports have been received.

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C. Maintaining Books, Records, Standards of Knowledge, and Tool Verification

A dealer must maintain the following books and records in conjunction with the QAP Site-Inspection Program.

1. **Customer File:** This file must contain:
 - a. Correlation between the file and the label log,
 - b. A work order describing the work performed,
 - c. Completed inspection checklists for the activities carried out,
 - d. The names of the technicians who performed the work ,
 - e. Evidence that the customer was provided instruction on the use or maintenance of the devices installed,
 - f. NHTSA Make Inoperative form if applicable,
 - g. A copy of the customer's driver's license, or verification, if applicable.

Rationale: To show the auditor:

- A clear link between the label report and the vehicle files;
- The documentation in the files demonstrates the dealer has a documented path showing the work requested is performed and that inspections have been carried out.
- If the inspections cover the critical requirements of the Guidelines and regulatory standards.
- Evidence the customer has been provided training on the use or operation of the devices installed.
- A path to the individuals who carried out the work.
- The auditor will request to see files from high/medium/low risk categories.

2. **Training Verification:** Training certificates must be maintained for all individuals who perform the work defined in the customer file. The auditor will request the training records and certificates for those individuals who conducted the work recorded on the work order.

Rationale: Ensures that individuals who carried out the work on a customer's vehicle were adequately trained.

3. **Standards of Knowledge:** The dealer must have the following documents on the premises and readily available to the person(s) performing the work.
 - a) NMEDA Guidelines
 - b) NHTSA Make Inoperative form (US dealers only)

Rationale: During an inspection, the auditor will ask a series of specific questions related to Guidelines that should reveal whether the dealer's technicians have:

- a) Knowledge of how the guidelines, motor vehicle standards, SAE Standards, etc. affect the work they perform. This is not a simple task to determine, as the technician only needs to have knowledge specific to the work being undertaken. It is considered more acceptable that the technician has

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familiarity with the standards and knows their affect on his work and where the information can be looked up than having them memorize a document, which is subject to periodic revision. The person carrying out the in-process and final inspections must be aware of the standards of acceptability!

- b) Manufacturer training, where offered, for the items of equipment being installed
 - c) Access to properly calibrated tooling
 - d) A clearly defined process to follow to carry out the work and inspection documents which identify the acceptance criteria for the work, particularly for critical safety, functionality and durability aspects of the product.
4. **Calibrated Tool Verification:** The dealer must have a procedure in place, which ensures that only calibrated torque wrenches are accessible to the technician and that these devices are subject to re-calibration on a prescribed schedule. This schedule will also be defined with respect to level of activity and time.

Rationale: The auditor will ask specific questions to verify that a procedure has been established and in use.

5. Dealer agrees to permit NMEDA, or its designated agent, to inspect records pertinent to this program during normal business hours. In order to verify that the dealer's "certified employees" are still employed, the auditor will seek positive identification to confirm the status of an employee and/or review the dealer's UCT-6 forms to confirm employment.
6. **Changes in employees:** Any time a dealer makes employment changes that would create a change in his QAP status (i.e. welding, insurance change) the dealer must immediately provide written notification to NMEDA of the change.
7. NHTSA "Make Inoperative" Form (US dealers only): The dealer is responsible for completing the "Make Inoperative" form for each vehicle it applies to. The auditing firm will verify this is being done as a part of the inspection.
8. **SAE Standards:** It is recommended that the dealer have the SAE Standards in Guidelines Section 31 – General Electrical Specifications. These standards can be obtained on the SAE website at www.sae.org or by calling SAE at (412) 776-4841.

D. Structural Manuals

All QAP Accredited Structural Vehicle Modifiers are required to have, on premises, the current copyrighted manuals for the structural modifications from NMEDA after their initial accreditation inspection. The dealer is required to follow the practices described in the structural manuals, unless other documents that certify compliance are available for inspection by the auditing firm. If the dealer drops the structural category, the manual must be returned to NMEDA. A dealer may also have completed independent testing, in which case, copies of the compliance documents must be available for inspection.

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E. Mandatory Inspections

- Semi-annual inspections are required for Structural Vehicle Modifiers and High Tech Driving System Installers.
 - Mobility Equipment Installers are inspected annually.
1. The NMEDA QAP Dealer Audit Reports are completed and sent to NMEDA headquarters by the inspector. A copy of the original report is put into the dealer's QAP file. The dealer will be advised immediately, by the QAP Coordinator, of any discrepancies in their audit report and apprised of the corrective actions that are required to maintain QAP accreditation.
 2. **The dealer will receive a conditional certificate of accreditation after NMEDA is advised by the auditing firm of the completion of the initial site inspection and conditional accreditation has been approved by NMEDA.** The initial inspection and certificate is valid for six months or one year, depending on category (ies) covered by the accreditation. Should an additional site inspection be required due to non-compliance, the dealer will incur additional inspection fees for an out of sequence audit.
 3. If it is established that a Mobility Equipment Installer is actually performing Structural or High Tech category type work, the dealer will automatically be required to be inspected on a semi-annual basis and apply for appropriate accreditation or lose their existing accreditation.

F. Shop Facility Specifications: NMEDA QAP dealers shall have at a minimum the following shop facility specifications:

- A permanent shop service area, separate from any showroom area, which is equivalent to an area of 40 feet X 25 feet or 1,000 square feet, with a vehicle entry door that has a minimum height of 9 feet and width of 8 feet.

Or:

- A permanent shop service area, separate from a showroom, which has ample clear floor area which allows a person using a mobility device to safely maneuver around the vehicle;
- Have ample space next to the vehicle to allow the ramp/lift to be fully deployed for entry/exit during customer fitting sessions;
- Have a vehicle entry door of sufficient size to allow safe entry/egress of all vehicles that the dealer intends to sell and/or service.

G. QAP Facility Standards Compliance Policy: A Quality Assurance Program participant in good standing with NMEDA, whose facility does not comply with the NMEDA QAP Membership Rules, Section V, paragraph F for Shop Facility Specifications will be given time to comply according to the following timetable.

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- Six (6) Months following an "Audit of Discovery", (the audit report that first cites that the mobility dealer is out of compliance), the dealer will have a plan in place, and ready for review, to correct facility according to the standard. (This can be accomplished any number of ways from simple remodeling to moving or changing facilities.)
- The dealer will then have up to twelve (12) months to complete the planned action(s) that will bring the dealer's facility into compliance with the standard.
- Failure to comply with either bullet 1 or bullet 2 of this policy will result in an immediate suspension from QAP until the policy is adhered to by submitting a Facility Compliance Plan to NMEDA and/or correcting the physical building structure.

H. Equipment Requirements: NMEDA QAP dealers shall have the following equipment at each location:

- 4-corner scales, with printer option recommended;
- small crimping tools of appropriate type for connectors used in the shop;
- large crimping tool (battery cable) of appropriate type for connectors used in the shop;
- multimeter;
- floor jack and jack stands, or vehicle hoist;
- air compressor and air tools or appropriate corded/cordless tools;
- Torque wrench calibrated to manufacturer specifications.

I. 24/7 Emergency Service:

NMEDA QAP dealers must have a system in place that allows customers easy access to an after-hours answering service, or service telephone number, or service beeper number. Dealers must respond to a service call promptly within 30 minutes, and provide emergency assistance as warranted. It is highly recommended for the dealer to outline their response system in writing, maintained with the dealer's other standard operating procedures. NMEDA tracks through independent verification that each dealer provides this service. Non-compliance is grounds for immediate suspension from the program until compliance can be verified.

The after-hours service person responding is expected to:

1. Respond promptly within 30 minutes to a service call.
2. Verify that the situation is not life threatening.
3. Confirm whether or not the problem is related to the conversion.
4. Attempt to talk the customer through a corrective action/emergency backup procedure.
5. Confirm that the customer has completed the necessary corrective action and can safely get home and advise the customer to call again with any other problems.

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NOTE: If the customer cannot complete the corrective action, the dealer is expected to advise the customer that a service person will be dispatched.

If an after-hours service person must be dispatched for a road call:

1. The service person is to confirm that the customer is in a safe location, and confirm any directions needed to find the customer.
2. The service person is to inform the customer that the emergency service will likely be a temporary repair, intended only to get the customer safely home. Therefore, a subsequent service appointment must be scheduled during normal service hours.
3. The service person must confirm their approximate arrival time.
4. The service person must confirm the approximate cost of the service call (if the service is not covered under warranty).

J. Out of Area Sales and Service Requirements:

After-Sale Service Dealer Agreements:

Out of NMEDA's commitment to the overall high quality experience and outcome for the customer with the disability, NMEDA QAP dealers who sell vehicles equipped with mobility products must ensure the following condition is met for their customers:

All vehicles outfitted with new warranted mobility products for use by individuals with disabilities must be sold and delivered only in the selling dealer's service area, or in mutual agreement with another NMEDA QAP dealer who will serve the client. This mutual agreement should be evidenced by a completed "Service Dealer Agreement" (See Appendix B), which is to be signed by the NMEDA selling QAP dealer, the NMEDA servicing QAP dealer, and the customer prior to finalizing a sale of the vehicle.

A service area is defined as an area within which a NMEDA QAP dealer can reasonably service customers to the level of service expected of NMEDA QAP dealers with the expectation that the customer will drive back to the selling dealer for service and repairs. The definition of this proximity is for the purpose of providing customers who purchase a vehicle, adaptive equipment, or both, with a reasonable distance to travel for repairs. The servicing NMEDA QAP dealer is expected to be certified to repair the level of equipment sold to the customer.

Misrepresentation of After-Sale Service Availability:

Without first establishing written service agreements between dealers, no NMEDA QAP dealer shall state or imply to a client or potential customer that following a sale, ANY DEALER can or will provide service to the vehicle or adaptive equipment package.

After-Sale Equipment Use, Training, and Demonstration:

The NMEDA QAP dealer must demonstrate the proper use and maintenance of the equipment to the end user/operator of the mobility equipment. This demonstration and training should include the proper fit and use of any included wheelchair tie down systems and wheelchair passenger restraint systems (refer to www.travelsafer.org).

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Furthermore, it is highly recommended to allow the end user/operator to demonstrate their competency in the use of all systems sold or provided by the dealer.

VI Status of NMEDA QAP Membership Accreditation

- A. **Application Pending:** Once the application is received by NMEDA, the NMEDA/Dealer Licensing Agreement, payment for membership and initial inspection and all certifications are submitted for review, the applicant will be put in pending status.
- B. **Accredited in Good Standing:** This can only occur after at least one inspection whereby all examples of work commensurate with the corresponding accreditation category (ies) are inspected and have passed.
- C. **Probationary:** Occurs when the dealer has outstanding actions, resulting from the initial audit, which must be completed. An out of sequence audit may be required to become accredited.
- D. **Suspended:** See Appendix C

VII Reasons for Withholding the Membership Accreditation and Suspension

NMEDA reserves the right to suspend a dealer from NMEDA membership for the following reasons:

- A. If the dealer has expired certifications discovered during inspection.
 - B. If the dealer does not have the required four-corner scales at each location.
- * Due to FMVSS/CMVSS 110 requirements, the QAP Committee feels it is vital to the program's success that each QAP location has its own set of scales.
- C. If the dealer does not provide the mandatory 24-hour service, as outlined in section 37 of the NMEDA Guidelines.
 - D. If the dealer has multiple locations and not all of them are accredited members.
 - E. The label report is due ten days after the end of the month, but suspension is warranted after sixty days.
 - F. If the dealer has a complaint filed against them by a customer or another dealer that is not moving toward resolution through the Mediation Committee, due to dealer's actions or inaction.
 - G. If the dealer does not have the required customer documentation. (See Appendix C)
 - H. If the dealer does not have the required tools, equipment, and facility requirements.
 - I. Non-progress on application after 30 days.
 - J. Substantiated complaints by the Mediation Committee
 - K. Non-payment of dues and/or fees relating to the program.

See Appendix C "Audit Findings Action Matrix" for reinstatement requirements.

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION

QUALITY ASSURANCE PROGRAM

VIII Termination from the Quality Assurance Program and Loss of NMEDA Membership

Accreditation can be terminated for any of the following reasons:

- A. Not undertaking the actions required as per the Audit Findings Action Matrix (Appendix C).
- B. Providing false information to either NMEDA or auditing firm.
- C. Recommendation for suspension of a participant verified by the QAP Coordinator.
- D. A dealer who is found to be out of compliance with the NMEDA Guidelines, or does not allow a re-inspection of their facility will lose their accreditation from the Quality Assurance Program and NMEDA membership.
- E. A dealer who makes any type of false advertisement, either expressed or implied, will be notified in writing to cease. If, after receipt of the letter, the false advertising continues, the dealer will be terminated from the program or process thereof and will not be able to reapply for the program or regain NMEDA membership.
- F. If a complaint is filed against a dealer by another dealer and it has been verified that quality work is not being performed as to the NMEDA Guidelines and/or applicable structural manuals and actions to correct the problem, as directed by NMEDA, have been met with refusal on the part of the dealer.

Upon receipt of notification of termination from the program the dealer
Forfeits all fees and must immediately:

- Cease making any reference that indicates QAP and/or NMEDA on modified vehicles, websites, invoices, advertising, publicity, or other releases.
- Return all labels to the Administrator. Dealer also forfeits all funds paid to Administrator for the labels.
- Return of the NMEDA QAP Membership Certificate of Accreditation to NMEDA.

IX Suspension and Reinstatement Process

- A. If a NMEDA QAP dealer is found in violation of any suspension offense (See below), they will be sent a letter stating that they will be suspended in 14 days of the date on the letter unless the violation can be cleared up. Scheduling an out-of sequence audit would constitute initiation of rectification within the 14-day time frame.
 - 1. If the violation is resolved within the 14-day timeframe and NMEDA is notified in writing with appropriate documentation, a letter will be sent to the subject dealer stating that the situation has been corrected and that they retain their positive NMEDA QAP membership status.
 - 2. If the situation is not resolved, the dealer will be notified after the fourteen days that they have been suspended until they can correct the violation and provide documentation to NMEDA.

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION

QUALITY ASSURANCE PROGRAM

3. Letters will be issued to all businesses, and state and industry organizations that require QAP as an operating criterion announcing the dealer's suspension from QAP.
4. Once the violation is resolved, NMEDA will issue a letter to all parties announcing the dealer's reinstatement of membership on the 30th day of the month in which the suspension is lifted. (Note that some issues may require more than 30 days to resolve)

Suspension means the member is prohibited from applying NMEDA QAP labels to vehicles. Upon future review of the member's label log and vehicle files it is discovered that labels have been applied during the suspension period, the member shall be recommended for removal from NMEDA for a period of 12 months. They may reapply for membership, subject to the fees appropriate for any first time applicant, after the 12 month suspension is completed.

For those members who rely on their QAP designation for their ability to bid on or to continue to provide products under their existing contracts, motivation for their ongoing commitment and compliance to this program should be crystal clear.

For those members who do not take their suspension seriously and who continue to apply their labels, it is a clear breach of our code of conduct, which will result in their loss of NMEDA QAP membership.

X. Complaint Process

The dealer will request a complaint form from NMEDA and the written complaint will be referred to the Mediation Committee for action. The Compliance Complaint Form is also available on the NMEDA web site (www.nmeda.org) under "Quality Assurance Program", "Documents".

NMEDA Headquarters will accept verbal dealer to dealer complaints as long as they are readily verifiable complaints i.e. a dealer that does not provide 24-hour emergency service.

XI. Privacy Policy:

Information provided by the dealer including the application, insurance policies, training and welding certifications is confidential and will only be shared with the auditing firm as necessary; audit reports are confidential. NMEDA will only provide forms and documentation as required by a court of law.

XII. NMEDA QAP Dealer Buy/Sell Regulations and Procedures

- A. In the event a NMEDA QAP accredited mobility dealership is sold, the new owner(s) must notify NMEDA immediately (within 30 days of taking possession of the business of the sale and re-file the following documents:
 1. A new dealer membership application listing the new owner(s) and staff (note business name change if applicable)

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

2. A Dealer Participation Agreement signed by the new owner(s)
3. Send in the required certificates of insurance for Product and Garage Keepers Liability coverage showing new ownership
4. A copy of a letter to the National Highway Traffic Safety Administration (NHTSA) registering the new owner as a specialty vehicle modifier for people with disabilities (US dealers only)

(NOTE: These documents must be filed with NMEDA prior to the next scheduled inspection. If not, the business' membership will be terminated at that time and the business must reapply.)

B. If there is a change in technical personnel, the new owner must declare the change and arrange to have NMEDA receive the training certificates for new personnel.

1. Membership status will be maintained for 60 days awaiting documentation at which time the dealership's membership will be suspended.

C. If a NMEDA QAP dealership is purchased and the new ownership changes locations.

1. Within 30 days of taking possession of the business, the new ownership will file a new application for membership in accordance with Sections XI; A & B declaring the facility change and make arrangements for an out of sequence audit.
2. The new ownership will be allowed to maintain their membership status until the out-of-sequence audit can be arranged.

D. If a NMEDA QAP dealership is purchased by a non NMEDA mobility location and shares the same name with other mobility dealerships of the purchasing company.

1. The new owner must follow the steps in Sections XI: A & B as they apply to the situation.
2. In addition, the new owner must apply for membership for other mobility dealership(s) within 30 days of obtaining ownership and follow the prescribed path to becoming a NMEDA QAP dealer.

(NOTE: If there is a change in the company name, NMEDA will change the information in the database, and on the NMEDA website to reflect the new name upon receipt of valid documentation. No change in NMEDA's records or reporting will be made unless proper documentation has been submitted to NMEDA and accepted.)

IMPORTANT: *The NMEDA QAP designation may not be used for any purpose by the new ownership until the above requirements have been satisfied.*

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

Appendix A

NMEDA QAP INSPECTOR PROCESS (New Members)

PRE-AUDIT:

1. New Members: Audit Firm (AF) is to schedule the first audit within 6 weeks of receiving a completed application form and initial audit payment check from NMEDA. For US members;
 - a. Audit Firm will inform NMEDA when the first audit is scheduled.

For Canadian dealers: NMEDA will schedule the first audit within a reasonable time of receiving a completed application form and initial payment check.

2. The Audit Firm should notify the Audit Inspector (AUDITOR) at least two week prior to the actual audit. The AUDITOR will review and confirm, if necessary, the following:
 - a. Name, address, phone #, dealer contacts
 - b. Level of Dealer QAP Certification applied for (Installer, Modifier, High Tech)
 - c. Any QAP Appeals pending or in force
 - d. List of Manufacturers that the dealer represents
 - e. All application documentation is on file at NMEDA
 - f. All documentation is on file at auditor location
3. The QC Manual will be sent to allow the dealer to start working on it in advance.
4. Confirm that a letter about process and products need for the audit was sent to the dealer. Failure to show work will result in an out of sequence audit at a cost of \$600.00.

The Auditor is expected to spend an adequate amount of time necessary in order to be properly prepared for dealer inspection. The purpose of the pre-audit preparation is to familiarize Auditor with the dealer.

AUDIT:

1. The Auditor arrives at dealer, meets the contact person, and begins the inspection. Using the QAP Audit Report, Auditor begins by conducting Facilities Review (Part F).
2. Complete tools and equipment review (Part D)
3. The Auditor provides the dealer with the Quality Control Manual Template and reviews the development process for the QC Manual and the Label Log. The dealer has 60 days from the first audit date to complete 3 copies of the manual and send to the Audit Firm for approval signatures and distribution. The dealer is informed that failure to finish and submit the document within 60 days will result in suspension of membership and all privileges.

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

4. Go to shop floor and complete Part C on NMEDA QAP DEALER'S AUDIT REPORT. Review a sampling of product which reflects the scope of work for which the dealer has applied. Should the dealer have insufficient product to demonstrate compliance in all areas, conduct a review of the dealer's process controls for those aspects of the work scope not verifiable through product inspection, Process controls must incorporate critical requirements identified in the NMEDA Guidelines, FMVSS/CMVSS Regulations, and SAE recommended practices and the like. The absence of both product and process controls shall result in a negative finding, as these are the only two acceptable ways to demonstrate compliance to the QAP. This will require an out-of-sequence audit. The dealer will be notified of all deficiencies and informed that non-compliance on the next audit could result in a suspension until the process is fixed.
5. Review all findings with the dealer contact and complete notes on Dealer's Audit report. Provide the dealer with a complete copy of all audit findings and inspection forms completed at the time of audit.
6. The Auditor will Fax the signed audit report from the dealer's place of business to the NMEDA office for evaluation and action.

POST AUDIT:

1. The NMEDA QAP Coordinator compiles all audit comments acquired at the inspection and creates a summary of deficiencies to be addressed during the next inspection and attached it to the completed form for future review. The summary will include the findings, highlighting the following as a double check in the process:
 - Any areas of concern or non-compliance as witnessed by the Auditor
 - Points to be followed up on at the next inspection
2. The NMEDA QAP Staff will place the new member audit file in a reminder file for follow up 2 weeks prior to the 60 day QC Manual deadline and contact the dealer as a reminder.
3. If the QC manual has not been received by the 60 day deadline, a letter will be issued suspending the dealer until he has complied with the requirement.

NMEDA QAP INSPECTOR PROCESS **(Member in Good Standing)**

Pre-Audit

Approved August 1, 2012

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

5. Audit Firm (AF) is to schedule all audits of dealers in good standing and will inform NMEDA when the first audit is scheduled.
6. The audit is to be scheduled within four weeks of the one year or 6 month audit anniversary (depending dealer classification) of the previous audit.
 - a. Audit Inspector, prior to the actual audit, (AI) will review the following:
 - b. Name, address, phone #, dealer contacts
 - c. Date of last inspection
 - d. # labels purchased since last inspection, label numbers outstanding
 - e. Level of Dealer QAP Certification
 - f. Previous inspection reports with follow-up summaries. Any pertinent dealer history

The Auditor is expected to spend an adequate amount of time necessary in order to be properly prepared for dealer inspection. The purpose of the pre-audit preparation is to familiarize the Inspector with the dealer, as well as important issues (past discrepancies, product changes, location changes, etc.) or areas of focus.

AUDIT:

1. The Auditor arrives at dealer, meets the contact person and begins the inspection.
 - a. Using the QAP Audit Report, the Auditor begins by conducting Facilities Review (Part F). This procedure should be followed at every audit to confirm the facility is still in compliance with ADA.
 - b. Pay particular attention to bathroom accessibility requirements and any specific client safety or comfort issues that may reasonably be identified due to facility design, renovation, and/or location.
2. Conduct Documentation Review (Parts A & B)
3. Request Label Log and complete Part E.
4. Inspect Label Log
 - a. Is label report complete and up to date?
 - b. Are adequate labels on hand for ongoing use? (based on Section 5 of the NMEDA rules) (Compare the latest label requirements from the NMEDA rules to the audit form)
 - c. Are all jobs shown in the Label Log performed within the scope of dealer's NMEDA QAP Certification?
5. Select 5 completed jobs from label log. Try to select those jobs that contain multiple product installations across the dealer's product categories. These categories can be found on the dealer's application and compiled from previous audit discoveries. For each one of the 5 different jobs, fill out "QAP JOB INSPECTION FORM."
6. Once these 5 jobs are complete, request access to company sales order file, or other general customer files, and randomly select 3 customers who have not previously been inspected. Once selected, try to match up those sales orders to

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

the NMEDA Label Log, and determine if those jobs had been labeled and recorded properly. The purpose of this process is to see if there are any labels missing from jobs that should have required them.

7. Go to shop floor and complete Part C on NMEDA QAP DEALER'S AUDIT REPORT. Review a sampling of product which reflects the scope of work for which the dealer has been accredited. Should the dealer have insufficient product to demonstrate compliance in all areas, conduct a review of the dealer's process controls for those aspects of the work scope not verifiable through product inspection, and not verified previously in prior task #7. Process controls must incorporate critical requirements identified in the NMEDA Guidelines, FMVSS/CMVSS Regulations, SAE recommended practices and the like. The absence of both product and process controls shall result in a negative finding, as these are the only two acceptable ways to demonstrate compliance to the QAP
8. Complete tools and equipment review (Part D)
9. Go over all findings with Dealer contact person and complete notes on Dealer's Audit report. Make sure that the dealer is given a complete copy of all audit findings and inspection forms completed at the time of audit. No new findings that were unreported here should be included in the final report to NMEDA.
10. The Auditor will Fax the signed audit report from the dealer's place of business to the NMEDA office for evaluation and action.

POST AUDIT:

4. The NMEDA QAP Coordinator will compile all audit comments acquired at the inspection and create a summary of deficiencies to be addressed during the next inspection and attached it to the completed form for future review. The summary will include the findings, highlighting the following as a double check in the process:
 - Any areas of concern or non-compliance as witnessed by the Auditor
 - Points to be followed up on at the next audit
5. The NMEDA QAP Staff will place the new member audit file in a reminder file for follow up 2 weeks prior to the 60 day QC Manual deadline and contact the dealer as a reminder.
6. If the QC manual has not been received by the 60 day deadline, a letter will be issued suspending the dealer until he has complied with the requirement.

QAP JOB PROCESS INSPECTION CHECKLIST

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

Label Number _____

Client Name _____

Dealer Name _____

Attach copy of Label Report for Job or List Equipment Installed

1. Does File identify technician(s) who did installs?
2. Do all technicians have current training certificates for products installed?
3. Is there evidence that procedures in quality manual and Manufacturer's installation instructions were followed?
4. Is there evidence that NMEDA Structural Manuals or instructions were used?
5. Is there evidence that FMVSS/CMVSS are readily available?
6. If 100KG/220lbs were installed, was vehicle weighed and labeled?
7. Is there evidence that SAE Practices are available?
8. Does Customer file have:
 - a. Documents describing all work performed?
 - b. Make Inoperative Form?
 - c. Complete checklist for all work performed?
 - d. Quality Inspection form completed by someone other than installing tech?
 - e. Road test Checklist?
 - f. Can you cross check Label Log and QAP Label Number?

Comments: _____

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

Appendix B

NMEDA Servicing Dealer Agreement

All vehicles outfitted with new warranted mobility products for use by individuals with disabilities must be sold and delivered only in the selling dealer's service area, or in mutual agreement with another NMEDA QAP dealer who will serve the client. This mutual agreement should be evidenced by a completed "Service Dealer Agreement."

NMEDA Servicing Dealer Agreement

This agreement is made between _____ (herein after "Seller") and the Servicing Dealer _____ (herein after "Shop") dated _____.

This agreement pertains to, and covers the following customer and vehicle:

Customer Name: _____

City/State/Province of residence: _____

Vehicle Year/Make/Model: _____

VIN number: _____

1. The servicing dealer must be certified to perform the services.
2. Shop agrees to provide service to customer on any issues arising out of sale and operation of above identified vehicle. Seller agrees to assume any and all expenses and liability arising out of the sale and installation of all items sold or installed by Seller.
3. Shop agrees to assume any and all expenses and liability arising out of the sale and installation of all items sold or installed by Shop.
4. Seller agrees to pay shop within 30 days for any and all expenses billed by Shop to Seller, pursuant to agreed upon policy.
5. Seller agrees to assume all liability and expense arising out of any issues associated with the sale of the above listed vehicle, including but not limited to:
 - Misapplication of vehicle or products.
 - Failure of any products, including chassis, pursuant to agreed upon warranty coverage at the time of sale.
 - Any problems with the title of the chassis, or issues arising out of any covered equipment.

The intent of this agreement is to insure that the customer receives priority service consideration from Shop, and that Seller assumes any and all responsibility in connection with the sale of the handicap equipped vehicle identified above, inasmuch as the sale of said vehicle occurred outside of Seller's immediate service area.

Selling Dealer Signature

Date _____

Servicing Dealer Signature

Date _____

Customer Signature

Date _____

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

Appendix C **Audit Findings Action Matrix**

FINDING	ACTION	NOTES
Product is or is not available for inspection and Process control & Inspection documentation not available for the work for which the company has been accredited	The QAP Coordinator will raise a corrective action requiring the dealer to have the documents in place and schedule an out-of-sequence inspection at the dealer's expense within 60 days. The dealer will be suspended until they take corrective action and pass inspection.	
Product is or is not available for inspection but Process control and Inspection documentation is available for the work for which the company has been accredited	If no product is available for the initial scheduled inspection the member will not be accredited until they can arrange a product review at the dealer's expense. For subsequent inspections, no action will be taken.	
Technicians do not have (where provided) manufacturer training on the items being installed	The QAP Coordinator is to raise a corrective action requiring the dealer to have their technicians obtain the required training within the next 90 days and provide proof to NMEDA. After 90 days, the dealer will be suspended until they comply.	As a minimum, the dealer should have personnel on staff trained for every type of adaptive device being installed. If the dealer has made progress and a credible action plan, an extension could be granted by the QAP Committee. The dealer would have to file his/her own request to the committee for approval.

NATIONAL MOBILITY EQUIPMENT DEALERS ASSOCIATION **QUALITY ASSURANCE PROGRAM**

FINDING	ACTION	NOTES
The work which was inspected does not comply with the guidelines and standards	The dealer shall take corrective action on the vehicle within 30 days and to provide a plan, which when carried out, will prevent this type of nonconformance in the future. The dealer will be suspended until the plan is received by NMEDA. Plan may include an out of sequence inspection.	This is a serious finding and must require a plan to prevent a reoccurrence; otherwise, it could potentially arise again.
Equipment found to be out of calibration.	Recalibrate equipment and provide proof to the QAPC within 30 days and provide a plan to prevent this from happening in the future or the dealer will be suspended	
Missing or obsolete documentation	This finding will result in the immediate suspension of accreditation until the dealer can provide objective evidence of compliance or the dealer schedules an out of sequence audit. Failure to achieve compliance within 30 days should result in suspension until a re-assessment can be carried out.	In this instance, documentation refers to those basic documents, Guidelines, and FMVSS/CMVSS regulations etc. that are specifically called for in the program. For the purpose of this item, documentation contained in customer files will be considered as confidential records.

NOTES

Two consecutive suspensions demonstrate a lack of commitment and should result in the removal of NMEDA QAP membership for a period of not less than six months.



D Note

State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1918/1

MDK:sac:ph

EVN

2

PM has been run

Soon

2013 BILL

INSEPTS

7/3/13

gen cat

and providing a penalty

1 **AN ACT to create** 100.204 of the statutes; **relating to:** motor vehicle adaptive
2 equipment for drivers with physical disabilities ~~and granting rule-making~~
3 ~~authority~~

Analysis by the Legislative Reference Bureau

This bill regulates the installation of equipment that allows an individual with a physical disability to safely operate a motor vehicle. The bill refers to such equipment as "adaptive equipment." Under the bill, a person may install adaptive equipment for an individual in a manner that alters any original part or equipment in a motor vehicle only if the individual provides the person installing the adaptive equipment with both of the following: 1) a physician's written referral authorizing the individual's use of the adaptive equipment; and 2) written documentation that an occupational or physical therapist has recommended the adaptive equipment. The occupational or physical therapist's recommendation must be based on the therapist's evaluation of the individual's operation of a motor vehicle using mechanical, electronic, or computer equipment that is similar to the adaptive equipment that is recommended.

The bill also prohibits any other individual from providing an evaluation or training on the use of adaptive equipment unless the individual is both a driver education instructor and a driver rehabilitation specialist, and the individual either: 1) is an occupational or physical therapist; or 2) works in health care under the direction of a physician, occupational therapist, or physical therapist. The bill defines a "driver rehabilitation specialist" as an individual certified by the

INSEPT A

BILL

Association for Driver Rehabilitation Specialists or an individual who satisfies qualification requirements specified in rules promulgated by the Department of Agriculture, Trade and Consumer Protection (DATCP).

The bill is enforced by DATCP. A person who violates the bill is subject to a criminal fine not exceeding \$200, imprisonment not exceeding six months, or both.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.204 of the statutes is created to read:

100.204 Motor vehicle adaptive equipment. (1) DEFINITIONS. In this section:

(a) "Adaptive equipment" means equipment that allows an individual with a physical disability to safely operate a motor vehicle.

(b) "Driver rehabilitation specialist" means an individual with an unexpired driver rehabilitation specialist certification issued by the Association for Driver Rehabilitation Specialists, or a successor organization, or an individual who, as specified in rules promulgated by the department, is qualified to plan, develop, coordinate, and implement driver rehabilitation services for individuals with physical disabilities.

(c) "Qualified instructor" has the meaning given in s. 343.07 (1c).

(2) INSTALLATION OF ADAPTIVE EQUIPMENT. No person may install adaptive equipment in a motor vehicle in a manner that alters any original part or equipment in the motor vehicle as sold by the manufacturer unless the individual with a physical disability for whom the adaptive equipment is installed provides the person with all of the following:

BILL

1 (a) A written referral of a physician, as defined in s. 448.01 (5), authorizing the
2 individual's use of adaptive equipment.

3 (b) Written documentation that an occupational therapist or physical
4 therapist, licensed under ch. 448, has recommended the adaptive equipment for the
5 individual based on the therapist's evaluation of the individual's operation of a motor
6 vehicle using mechanical, electronic, or computer equipment that is similar to the
7 adaptive equipment that is recommended.

8 (3) ADAPTIVE EQUIPMENT TRAINING. (a) No individual may provide an evaluation
9 or training on the use of adaptive equipment unless the individual is a qualified
10 instructor and a driver rehabilitation specialist and the individual satisfies one of
11 the following:

12 1. The individual is licensed as an occupational or physical therapist under ch.
13 448.

14 2. The individual works in health care under the direction of a physician,
15 occupational therapist, or physical therapist, licensed under ch. 448.

16 (b) Paragraph (a) does not apply to an evaluation by an occupational or physical
17 therapist, licensed under ch. 448, that is described in sub. (2) (b).

18 (END)

INSERT 3-17

DNBte

1

INSERT A:

This bill regulates the installation of "adaptive equipment," which the bill defines as equipment allowing an individual with a physical disability to safely operate a motor vehicle. The bill refers to an individual for whom the equipment is installed as a "client." The bill prohibits a person from installing adaptive equipment for a client in a manner that alters any original part or equipment in a motor vehicle, unless the following five requirements are satisfied.

* First, the person installing the equipment (installer) must be accredited under the Quality Assurance Program (QAP) of the National Mobility Equipment Dealer's Association (NMEDA). * Second, the client must certify to the installer that the client has received a clinical evaluation performed by an occupational therapist, physical therapist, or physician. The bill defines "clinical evaluation" as an evaluation of a client's range of motion, strength, sensation, perception, visual and cognitive skills, kinesthetic awareness, and medical history. Third, the client must certify to the installer that the client has received a "behind-the-wheel evaluation," which is defined as an evaluation involving the client's use of adaptive equipment to determine the adaptive equipment that is appropriate for the client. The behind-the-wheel evaluation must be performed by an occupational therapist, physical therapist, or physician who has an unexpired driver rehabilitation specialist certification issued by the Association for Driver Rehabilitation Specialists or a successor organization, or who is training for such certification under the supervision of a person who has such certification. In addition, the occupational therapist, physical therapist, or physician must also be a qualified driving instructor. Also, the behind-the-wheel evaluation must be performed in a motor vehicle that satisfies the requirements of the Wisconsin Department of Transportation (DOT) for driver training cars.

Fourth, the client must provide the installer with a document, which the bill refers to as a vehicle modification order, that specifies the adaptive equipment that is determined to be appropriate for the client. The vehicle modification order must be made by the occupational therapist, physical therapist, or physician who performed the behind-the-wheel evaluation. Fifth, the installer may only install the adaptive equipment specified in the vehicle modification order. A person who installs adaptive equipment in violation of the foregoing requirements is subject to a civil forfeiture of not more than \$200.

The bill also prohibits DOT from issuing a driver's license to a person if DOT determines that special mechanical controls are required for the person to safely operate a motor vehicle, unless the person provides DOT with certifications that the person received the clinical and behind-the-wheel evaluations described above. In addition, the person must provide DOT with a certification from the occupational therapist, physical therapist, or physician who performed the behind-the-wheel evaluation that adaptive equipment was installed as specified in the vehicle modification order made by the occupational therapist, physical therapist, or physician.

INSERT 3-17:

SECTION 1. 343.13 (1) of the statutes is amended to read:

343.13 (1) ~~The Subject to sub. (4), the~~ department upon issuing any license pursuant to this chapter may, whenever good cause appears, impose restrictions suitable to the licensee's operating ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

History: 1977 c. 29 s. 1654 (7) (a); 1989 a. 105; 2009[✓] s. 32.

SECTION 2. 343.13 (4) of the statutes is created to read:

343.13 (4) The department may not issue a license to a person if the department determines that special mechanical control devices are required for the licensee to safely operate a motor vehicle unless the person provides all of the following to the department:

- (a) A clinical evaluation certification under s. 347.473 (2) (b) 1. ✓
- (b) A behind-the-wheel evaluation certification under s. 347.473 (2) (b) 2. ✓
- (c) A certification from the health care professional providing an evaluation under s. 347.473 (2) (b) 2. ✓ that the adaptive equipment was installed as specified in a vehicle modification order under s. 347.473 (2) (c). ✓

SECTION 3. 347.473 of the statutes is created to read:

347.473 Motor vehicle adaptive equipment. (1) DEFINITIONS. In this section:

- (a) "Adaptive equipment" means equipment that allows for the safe operation of a motor vehicle by an individual with a physical disability. ✓

1 (b) "Behind-the-wheel evaluation" means an evaluation of a client that
2 satisfies all of the following:

3 1. The evaluation is performed in a motor vehicle that satisfies the
4 requirements under s. 343.72.

5 2. The evaluation involves the client's use of adaptive equipment to determine
6 the adaptive equipment that is appropriate for the client.

7 3. The evaluation includes training on the adaptive equipment that is
8 determined to be appropriate for the client.

9 (c) "Client" means an individual with a physical disability for whom adaptive
10 equipment is installed in a motor vehicle.

11 (d) "Clinical evaluation" means an evaluation of a client's range of motion,
12 strength, sensation, perception, visual and cognitive skills, kinesthetic awareness,
13 and medical history.

14 (e) "Driver rehabilitation specialist" means an individual with an unexpired
15 driver rehabilitation specialist certification issued by the Association for Driver
16 Rehabilitation Specialists or a successor organization.

17 (f) "Health care professional" means an occupational therapist, physical
18 therapist, or physician licensed under chapter 448.

19 (g) "Vehicle modification order" means a document made by a health care
20 professional who has performed a behind-the-wheel evaluation of a client that
21 specifies the adaptive equipment that the health care professional determines is
22 appropriate for the client.

23 (2) INSTALLATION OF ADAPTIVE EQUIPMENT. No person may install adaptive
24 equipment in a motor vehicle for a client in any manner that alters any original part

or equipment in the motor vehicle as sold by the manufacturer unless all of the following are satisfied:

(a) The person is accredited to install the adaptive equipment under the Quality Assurance Program[✓] of the National Mobility Equipment Dealer's Association.[✓]

(b) The client certifies to the person that the client has received both of the following:

1. A clinical evaluation performed by a health care professional.

2. A behind-the-wheel evaluation performed by a health care professional who is a qualified instructor, as defined in s. 343.07 (1c)[✓], and who is either a driving rehabilitation specialist or is training to be a driving rehabilitation specialist under the supervision of a driving rehabilitation specialist.

(c) The client provides the person with a copy of a vehicle modification order made by the health care professional who performed the behind-the-wheel evaluation described in par. (b) 2.[✓]

(d) The adaptive equipment that is installed is specified in the vehicle modification order described in par. (c).[✓]

SECTION 4. 347.50 (1) of the statutes is amended to read:

347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), ~~s.~~ 347.413 (1) ~~or s.~~ , 347.415 (1m), (2), and (3) to (5) ~~or s.~~ , 347.417 (1) ~~or s.~~ , 347.473,
347.475 ~~or s.~~ , 347.48 (2m) or (4), ~~or s.~~ 347.489, may be required to forfeit not less than
\$10 nor more than \$200.

History: 1971 c. 278; 1975 c. 121; 1981 c. 327; 1983 a. 243; 1985 a. 309; 1987 a. 132; 1989 a. 22; 1991 a. 26, 277; 2001 a. 28; 2003 a. 166; 2005 a. 106, 193; 2007 a. 97; 2009 a. 28, 100.

SECTION 5. 347.50 (2j) of the statutes is created to read:

1 347.50 (2j) Any person who installs adaptive equipment in a motor vehicle in
2 violation of sub. 347.473 (2) may be required to forfeit not more than \$200 for each
3 violation.
4
5

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1918/2dn

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§ EVM

Rep. Krug:

This version of the bill is based on the changes that were requested. Please review it to make sure it achieves your intent. In particular, please note the following:

* 1. Before a person can install adaptive equipment, the individual for whom the equipment is installed must "certify" to the person that the individual has received both a clinical and behind-the-wheel evaluation. Is that okay, or do you want to require the individual to do something else, such as provide documentation, in addition to making a certification?

* 2. The bill prohibits a person from installing adaptive equipment unless the person is accredited to install the equipment under the Quality Assurance Program (QAP) of the National Mobility Equipment Dealer's Association (NMEDA). How does one know whether a person satisfies this requirement? We found on the internet the August 2012 QAP membership rules of the NMEDA, which state that members of NMEDA are required to participate in the QAP, and that nonmembers may participate by paying a \$5,000 annual fee. However, we have not been able to find a publicly available list of members and nonmembers who are accredited under the QAP. Such information appears to be available in a NMEDA publication called Circuit Breaker, but that publication is available only with a paid subscription. If the information is not otherwise available, it may be difficult for individuals for whom equipment is installed to ascertain whether they have complied with the law, and it may difficult for DOT to enforce the law. Please let us know what you think about these issues. Also, if we are mistaken about any of the foregoing, please let us know.

* 3. The accreditation described above could be challenged as an improper delegation of law-making authority to a private entity, as NMEDA, rather than the legislature or a state agency, determines the requirements for accreditation. Note that some courts have upheld statutes that refer to determinations made by private entities. (See, plain e.g., *State v. Wakeen*, 263 Wis. 401 (1953) (defining "drug" based on pharmacopoeia compiled by private organizations); and *State of Michigan v. Bayer*, 279 Mich. App. 49 (2008) (defining a crime to include a violation of professional code of ethics), *vacated in part on other grounds*, 482 Mich. 1000 (2008). Although it is difficult to predict how a court would resolve the issue, we think you should at least be aware of this potential challenge. plain

4. Please note, the adaptive equipment requirement for obtaining an operator's license is only effective upon a person's need for a license. A person who already has an operator's license will not be in violation of the adaptive equipment requirements for licensing until his or her license expires or is cancelled.

5. The prohibition in s. 347.473 (2) can be read to cover, perhaps, more conduct than you intend to cover. Please review the prohibition and the definition of "adaptive equipment" to ensure the provision meets your intent.

6. As currently written, s. 347.473 may be difficult for DOT to enforce. Do you want to include recordkeeping requirements or inspection authority to allow for more effective enforcement?

7. Driving a motor vehicle with adaptive equipment on a highway without complying with s. 343.13 would subject the operator to the penalties for driving without a license. Please review s. 343.05 (5) to ensure that these penalties meet your intent.

8. Do you want to provide penalties for any other conduct related to motor vehicles and adaptive equipment, for example, false certifications?

9. It is likely that the provisions of this draft would increase costs for DOT. Do you want to appropriate additional funds to DOT?

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8. How do you want to handle vehicles that already have adaptive equipment? Grandfather them? An alternate inspection requirement?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1918/2dn
MDK&EVM:sac:rs

July 16, 2013

Rep. Krug:

This version of the bill is based on the changes that were requested. Please review it to make sure it achieves your intent. In particular, please note the following:

1. Before a person can install adaptive equipment, the individual for whom the equipment is installed must “certify” to the person that the individual has received both a clinical and behind-the-wheel evaluation. Is that okay, or do you want to require the individual to do something else, such as provide documentation, in addition to making a certification?

2. The bill prohibits a person from installing adaptive equipment unless the person is accredited to install the equipment under the Quality Assurance Program (QAP) of the National Mobility Equipment Dealer’s Association (NMEDA). How does one know whether a person satisfies this requirement? We found on the Internet the August 2012 QAP membership rules of the NMEDA, which state that members of NMEDA are required to participate in the QAP, and that nonmembers may participate by paying a \$5,000 annual fee. However, we have not been able to find a publicly available list of members and nonmembers who are accredited under the QAP. Such information appears to be available in a NMEDA publication called Circuit Breaker, but that publication is available only with a paid subscription. If the information is not otherwise available, it may be difficult for individuals for whom equipment is installed to ascertain whether they have complied with the law, and it may difficult for DOT to enforce the law. Please let us know what you think about these issues. Also, if we are mistaken about any of the foregoing, please let us know.

3. The accreditation described above could be challenged as an improper delegation of law-making authority to a private entity, as NMEDA, rather than the legislature or a state agency, determines the requirements for accreditation. Note that some courts have upheld statutes that refer to determinations made by private entities. See, e.g., *State v. Wakeen*, 263 Wis. 401 (1953) (defining “drug” based on pharmacopoeia compiled by private organizations); and *State of Michigan v. Bayer*, 279 Mich. App. 49 (2008) (defining a crime to include a violation of professional code of ethics), *vacated in part on other grounds*, 482 Mich. 1000 (2008). Although it is difficult to predict how a court would resolve the issue, we think you should at least be aware of this potential challenge.

4. Please note, the adaptive equipment requirement for obtaining an operator's license is only effective upon a person's need for a license. A person who already has an operator's license will not be in violation of the adaptive equipment requirements for licensing until his or her license expires or is cancelled.
5. The prohibition in s. 347.473 (2) can be read to cover, perhaps, more conduct than you intend to cover. Please review the prohibition and the definition of "adaptive equipment" to ensure the provision meets your intent.
6. As currently written, s. 347.473 may be difficult for DOT to enforce. Do you want to include recordkeeping requirements or inspection authority to allow for more effective enforcement?
7. Driving a motor vehicle with adaptive equipment on a highway without complying with s. 343.13 would subject the operator to the penalties for driving without a license. Please review s. 343.05 (5) to ensure that these penalties meet your intent.
8. How do you want to handle vehicles that already have adaptive equipment? Grandfather them? An alternate inspection requirement?
9. Do you want to provide penalties for any other conduct related to motor vehicles and adaptive equipment, for example, false certifications?
10. It is likely that the provisions of this draft would increase costs for DOT. Do you want to appropriate additional funds to DOT?

Mark D. Kunkel
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Kunkel, Mark

From: Thorson, Randy
Sent: Wednesday, September 04, 2013 9:27 AM
To: Kunkel, Mark
Subject: RE: LRB-1918/2

That is correct Mark and thank you.

Randy

From: Kunkel, Mark
Sent: Wednesday, September 04, 2013 8:52 AM
To: Thorson, Randy
Subject: LRB-1918/2

Randy,

I got your voice mail from yesterday. The only change you want to the above draft is to remove physical therapists, right? The result will be to eliminate the reference to physical therapists from the definition of health care professional.

--Mark



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-1918/2
MDK&EVM:sac:rs

(3)

NOTE

2013 BILL

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12 9-4

- 1 AN ACT *to amend* 343.13 (1) and 347.50 (1); and *to create* 343.13 (4), 347.473
- 2 and 347.50 (2j) of the statutes; **relating to:** motor vehicle adaptive equipment
- 3 for drivers with physical disabilities and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill regulates the installation of “adaptive equipment,” which the bill defines as equipment allowing an individual with a physical disability to safely operate a motor vehicle. The bill refers to an individual for whom the equipment is installed as a “client.” The bill prohibits a person from installing adaptive equipment for a client in a manner that alters any original part or equipment in a motor vehicle, unless the following five requirements are satisfied.

First, the person installing the equipment (installer) must be accredited under the Quality Assurance Program of the National Mobility Equipment Dealer’s Association. Second, the client must certify to the installer that the client has received a clinical evaluation performed by an occupational therapist ~~physical therapist~~ or physician. The bill defines “clinical evaluation” as an evaluation of a client’s range of motion, strength, sensation, perception, visual and cognitive skills, kinesthetic awareness, and medical history. Third, the client must certify to the installer that the client has received a “behind-the-wheel evaluation,” which is defined as an evaluation involving the client’s use of adaptive equipment to determine the adaptive equipment that is appropriate for the client. The behind-the-wheel evaluation must be performed by an occupational therapist ~~physical therapist~~ or physician who has an unexpired driver rehabilitation

BILL

✓ specialist certification issued by the Association for Driver Rehabilitation Specialists or a successor organization, or who is training for such certification under the supervision of a person who has such certification. In addition, the occupational therapist ~~physical therapist~~ or physician must also be a qualified driving instructor. Also, the behind-the-wheel evaluation must be performed in a motor vehicle that satisfies the requirements of the Wisconsin Department of Transportation (DOT) for driver training cars.

✓ Fourth, the client must provide the installer with a document, which the bill refers to as a vehicle modification order, that specifies the adaptive equipment that is determined to be appropriate for the client. The vehicle modification order must be made by the occupational therapist ~~physical therapist~~ or physician who performed the behind-the-wheel evaluation. Fifth, the installer may only install the adaptive equipment specified in the vehicle modification order. A person who installs adaptive equipment in violation of the foregoing requirements is subject to a civil forfeiture of not more than \$200.

✓ The bill also prohibits DOT from issuing a driver's license to a person if DOT determines that special mechanical controls are required for the person to safely operate a motor vehicle, unless the person provides DOT with certifications that the person received the clinical and behind-the-wheel evaluations described above. In addition, the person must provide DOT with a certification from the occupational therapist ~~physical therapist~~ or physician who performed the behind-the-wheel evaluation that adaptive equipment was installed as specified in the vehicle modification order made by the occupational therapist ~~physical therapist~~ or physician.

✓ For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.13 (1) of the statutes is amended to read:

2 343.13 (1) The Subject to sub. (4), the department upon issuing any license
3 pursuant to this chapter may, whenever good cause appears, impose restrictions
4 suitable to the licensee's operating ability with respect to the type of or special
5 mechanical control devices required on a motor vehicle which the licensee may
6 operate, or such other restrictions applicable to the licensee as the department may
7 determine to be appropriate to assure the safe operation of a motor vehicle by the
8 licensee.

BILL

1 **SECTION 2.** 343.13 (4) of the statutes is created to read:

2 343.13 (4) The department may not issue a license to a person if the department
3 determines that special mechanical control devices are required for the licensee to
4 safely operate a motor vehicle unless the person provides all of the following to the
5 department:

6 (a) A clinical evaluation certification under s. 347.473 (2) (b) 1.

7 (b) A behind-the-wheel evaluation certification under s. 347.473 (2) (b) 2.

8 (c) A certification from the health care professional providing an evaluation
9 under s. 347.473 (2) (b) 2. that the adaptive equipment was installed as specified in
10 a vehicle modification order under s. 347.473 (2) (c).

11 **SECTION 3.** 347.473 of the statutes is created to read:

12 **347.473 Motor vehicle adaptive equipment.** (1) **DEFINITIONS.** In this
13 section:

14 (a) “Adaptive equipment” means equipment that allows for the safe operation
15 of a motor vehicle by an individual with a physical disability.

16 (b) “Behind-the-wheel evaluation” means an evaluation of a client that
17 satisfies all of the following:

18 1. The evaluation is performed in a motor vehicle that satisfies the
19 requirements under s. 343.72.

20 2. The evaluation involves the client’s use of adaptive equipment to determine
21 the adaptive equipment that is appropriate for the client.

22 3. The evaluation includes training on the adaptive equipment that is
23 determined to be appropriate for the client.

24 (c) “Client” means an individual with a physical disability for whom adaptive
25 equipment is installed in a motor vehicle.

BILL

SECTION 3

(d) "Clinical evaluation" means an evaluation of a client's range of motion, strength, sensation, perception, visual and cognitive skills, kinesthetic awareness, and medical history.

(e) "Driver rehabilitation specialist" means an individual with an unexpired driver rehabilitation specialist certification issued by the Association for Driver Rehabilitation Specialists or a successor organization.

(f) "Health care professional" means an occupational therapist, physical therapist, or physician licensed under chapter 448.

(g) "Vehicle modification order" means a document made by a health care professional who has performed a behind-the-wheel evaluation of a client that specifies the adaptive equipment that the health care professional determines is appropriate for the client.

(2) INSTALLATION OF ADAPTIVE EQUIPMENT. No person may install adaptive equipment in a motor vehicle for a client in any manner that alters any original part or equipment in the motor vehicle as sold by the manufacturer unless all of the following are satisfied:

(a) The person is accredited to install the adaptive equipment under the Quality Assurance Program of the National Mobility Equipment Dealer's Association.

(b) The client certifies to the person that the client has received both of the following:

1. A clinical evaluation performed by a health care professional.
2. A behind-the-wheel evaluation performed by a health care professional who is a qualified instructor, as defined in s. 343.07 (1c), and who is either a driver or a driver's instructor.

BILL

1 rehabilitation specialist or is training to be a ~~driver~~ ^{driver} rehabilitation specialist under
2 the supervision of a ~~driver~~ ^{driver} rehabilitation specialist.

3 (c) The client provides the person with a copy of a vehicle modification order
4 made by the health care professional who performed the behind-the-wheel
5 evaluation described in par. (b) 2.

6 (d) The adaptive equipment that is installed is specified in the vehicle
7 modification order described in par. (c).

8 **SECTION 4.** 347.50 (1) of the statutes is amended to read:

9 347.50 (1) Any person violating ss. 347.35 to 347.49, except s. 347.385 (5), s.
10 347.413 (1) ~~or s.~~, 347.415 (1m), (2), and (3) to (5) ~~or s.~~, 347.417 (1) ~~or s.~~, 347.473,
11 347.475 ~~or s.~~, 347.48 (2m) or (4), or s. 347.489, may be required to forfeit not less than
12 \$10 nor more than \$200.

13 **SECTION 5.** 347.50 (2j) of the statutes is created to read:

14 347.50 (2j) Any person who installs adaptive equipment in a motor vehicle in
15 violation of sub. 347.473 (2) may be required to forfeit not more than \$200 for each
16 violation.

17 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1918/3dn

MDK: j:....

See

- dade -

Rep. Krug:

This version is identical to the previous version, except that "physical therapist" is removed from the definition of "health care professional."

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1918/3dn
MDK:sac:rs

September 5, 2013

Rep. Krug:

This version is identical to the previous version, except that "physical therapist" is removed from the definition of "health care professional."

Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.wisconsin.gov

Parisi, Lori

From: Thorson, Randy
Sent: Friday, November 01, 2013 3:32 PM
To: LRB.Legal
Subject: Draft Review: LRB -1918/1 Topic: Installation of adaptive driving equipment

Please Jacket LRB -1918/1 for the ASSEMBLY.